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Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2006

CHAPTER _____

1 AN ACT concerning

2 **Lead-Safe Housing - Income Tax Credit**

3 FOR the purpose of allowing an individual or a corporation to claim a credit against
4 the State income tax under certain circumstances for certain costs incurred for
5 an approved lead hazard reduction project with respect to certain property;
6 providing for calculation of the credit; disallowing the credit for costs for which
7 the taxpayer has received a grant or loan under certain State programs;
8 providing for the carryover of unused credit; providing for submission of
9 proposals for lead hazard reduction projects to the Department of Housing and
10 Community Development for approval; limiting the total amount of credits that
11 the Department may approve for any fiscal year; prohibiting the Department
12 from approving lead hazard reduction projects for a credit after a certain date;
13 prohibiting certain false statements; providing a certain penalty for certain
14 violations; requiring the Department to adopt certain regulations; defining
15 certain terms; providing for the application of this Act; and generally relating to
16 a credit against the State income tax for certain approved lead hazard reduction
17 projects.

18 BY adding to
19 Article - Tax - General
20 Section 10-726

1 Annotated Code of Maryland
2 (2004 Replacement Volume and 2005 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Tax - General**

6 10-726.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND
10 COMMUNITY DEVELOPMENT.

11 (3) "EXTERIOR SURFACES" HAS THE MEANING STATED IN § 6-801 OF THE
12 ENVIRONMENT ARTICLE.

13 (4) "LEAD HAZARD REDUCTION ACTIVITY" HAS THE MEANING STATED IN
14 ARTICLE 83B, § 2-1402 OF THE CODE.

15 (5) "LEAD-FREE WINDOW" MEANS A WINDOW THAT IS LEAD-FREE OR
16 THAT WAS INSTALLED AFTER 1978.

17 (6) "QUALIFYING PROPERTY" MEANS A PROPERTY CONSTRUCTED
18 BEFORE 1978 WITH RESPECT TO WHICH A CREDIT UNDER THIS SECTION HAS NOT
19 PREVIOUSLY BEEN GRANTED AND THAT IS:

20 (I) AN AFFECTED PROPERTY REGISTERED WITH THE
21 DEPARTMENT UNDER § 6-811 OF THE ENVIRONMENT ARTICLE THAT:

22 1. CONTAINS LEAD-BASED PAINT;

23 ~~4.~~ 2. HAS AT LEAST TWO BEDROOMS; AND

24 ~~2.~~ 3. NOTWITHSTANDING § 6-817 OF THE ENVIRONMENT
25 ARTICLE, AT THE TIME OF APPLICATION FOR APPROVAL AND AT THE TIME OF
26 COMMENCEMENT OF AN APPROVED LEAD HAZARD REDUCTION PROJECT UNDER
27 THIS SECTION IS IN FULL COMPLIANCE WITH THE REQUIREMENTS OF TITLE 6,
28 SUBTITLE 8 OF THE ENVIRONMENT ARTICLE, INCLUDING § 6-815 OR § 6-819 OF THE
29 ENVIRONMENT ARTICLE;

30 (II) A CHILD CARE CENTER AS DEFINED IN § 5-570 OF THE FAMILY
31 LAW ARTICLE OR A DAY CARE CENTER FOR THE ELDERLY AS DEFINED IN § 14-201 OF
32 THE HEALTH - GENERAL ARTICLE THAT:

33 1. CONTAINS LEAD-BASED PAINT; AND

1 2. ; AT THE TIME OF APPLICATION FOR APPROVAL AND AT
2 THE TIME OF COMMENCEMENT OF AN APPROVED LEAD HAZARD REDUCTION
3 PROJECT UNDER THIS SECTION, IS IN FULL COMPLIANCE WITH ALL APPLICABLE
4 LICENSING LAWS AND HAS MET ALL INSPECTION REQUIREMENTS OF THE SOCIAL
5 SERVICES ADMINISTRATION OF THE DEPARTMENT OF HUMAN RESOURCES, LOCAL
6 PUBLIC HEALTH DEPARTMENTS, AND ANY OTHER LEGALLY REQUIRED
7 INSPECTIONS; OR

8 (III) OWNER-OCCUPIED HOUSING THAT:

9 1. CONTAINS LEAD-BASED PAINT; AND

10 2. HAS AT LEAST TWO BEDROOMS.

11 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INDIVIDUAL OR A
12 CORPORATION MAY CLAIM A TAX CREDIT IN THE AMOUNT DETERMINED UNDER
13 SUBSECTION (C) OF THIS SECTION FOR AN APPROVED LEAD HAZARD REDUCTION
14 PROJECT FOR QUALIFYING PROPERTY.

15 (C) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (D) OF THIS SECTION,
16 THE CREDIT ALLOWED UNDER THIS SECTION IS:

17 (1) FOR RENTAL PROPERTY, 90% OF THE DIRECT COSTS OF AN
18 APPROVED LEAD HAZARD REDUCTION PROJECT INCURRED WITH RESPECT TO A
19 RESIDENTIAL RENTAL UNIT;

20 (2) FOR A CHILD CARE CENTER OR A DAY CARE CENTER FOR THE
21 ELDERLY, 70% OF THE DIRECT COSTS OF AN APPROVED LEAD HAZARD REDUCTION
22 PROJECT; AND

23 (3) FOR OWNER-OCCUPIED PROPERTY, 90% OF THE DIRECT COSTS OF AN
24 APPROVED LEAD HAZARD REDUCTION PROJECT.

25 (D) (1) FOR ANY TAXABLE YEAR, THE TOTAL CREDIT ALLOWED UNDER THIS
26 SECTION MAY NOT EXCEED:

27 (I) ~~\$10,000~~ \$5,000 PER UNIT; OR

28 (II) \$50,000 TOTAL FOR ANY TAXPAYER.

29 (2) THE TOTAL CREDIT ALLOWED UNDER THIS SECTION FOR ANY
30 APPROVED LEAD REDUCTION PROJECT MAY NOT EXCEED THE MAXIMUM CREDIT
31 SPECIFIED BY THE DEPARTMENT IN ITS APPROVAL OF THE LEAD HAZARD
32 REDUCTION PROJECT.

33 (E) THE CREDIT UNDER THIS SECTION IS ALLOWED FOR THE TAXABLE YEAR
34 IN WHICH AN APPROVED LEAD HAZARD REDUCTION PROJECT IS COMPLETED AND
35 THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION ARE SATISFIED.

36 (F) (1) THE CREDIT UNDER THIS SECTION IS ALLOWED ONLY IF:

1 (I) ALL LEAD HAZARD REDUCTION ACTIVITIES UNDER AN
2 APPROVED LEAD HAZARD REDUCTION PROJECT ARE PERFORMED IN ACCORDANCE
3 WITH STANDARDS AND PROCEDURES ESTABLISHED IN REGULATIONS ADOPTED BY
4 THE DEPARTMENT OF THE ENVIRONMENT UNDER TITLE 6, SUBTITLES 8 AND 10 OF
5 THE ENVIRONMENT ARTICLE; AND

6 (II) AT COMPLETION OF THE APPROVED LEAD HAZARD REDUCTION
7 PROJECT:

8 1. THE FULL RISK REDUCTION STANDARD UNDER §
9 6-815(A)(2) OF THE ENVIRONMENT ARTICLE IS SATISFIED;

10 2. ALL EXTERIOR ENTRYWAYS FOR THE PROPERTY HAVE A
11 WALK-OFF FLOOR MAT;

12 3. ALL EXTERIOR SURFACES ARE FREE OF CHIPPING,
13 PEELING, OR FLAKING PAINT;

14 4. ALL WINDOWS, OTHER THAN WINDOWS IN AN
15 UNFINISHED BASEMENT AREA NOT USED FOR LIVING, SLEEPING, EATING, COOKING,
16 OR SANITATION, ARE LEAD-FREE WINDOWS; AND

17 5. THE PROPERTY PASSES THE TEST FOR
18 LEAD-CONTAMINATED DUST UNDER § 6-816 OF THE ENVIRONMENT ARTICLE AND
19 REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.

20 (2) AN INDEPENDENT INSPECTOR WHO IS ACCREDITED BY THE
21 DEPARTMENT OF THE ENVIRONMENT AND IS NOT A RELATED PARTY AS DEFINED IN
22 § 6-801 OF THE ENVIRONMENT ARTICLE SHALL VERIFY THAT THE REQUIREMENTS OF
23 PARAGRAPH (1) OF THIS SUBSECTION HAVE BEEN SATISFIED AND A
24 STATE-ACCREDITED LABORATORY SHALL PROCESS THE LEAD-CONTAMINATED
25 DUST TEST UNDER PARAGRAPH (1)(II)5 OF THIS SUBSECTION.

26 (3) WHEN THE REQUIREMENTS OF THIS SUBSECTION HAVE BEEN
27 SATISFIED, ~~THE DEPARTMENT OF THE ENVIRONMENT INDEPENDENT INSPECTOR~~
28 HIRED BY THE OWNER SHALL ISSUE A CERTIFICATE INDICATING THAT THE
29 TAXPAYER IS ELIGIBLE FOR THE CREDIT UNDER THIS SECTION HAS MET THE
30 REQUIREMENTS FOR THE CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

31 (4) THE CERTIFICATE ISSUED UNDER PARAGRAPH (3) OF THIS
32 SUBSECTION SHALL BE PROVIDED TO THE COMPTROLLER WITH THE TAXPAYER'S
33 RETURN FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

34 (G) THE CREDIT UNDER THIS SECTION MAY NOT BE ALLOWED FOR ANY COSTS
35 FOR WHICH THE TAXPAYER HAS RECEIVED A GRANT OR LOAN UNDER THE LEAD
36 HAZARD REDUCTION GRANT AND LOAN PROGRAMS ESTABLISHED UNDER TITLE 4,
37 SUBTITLE 7 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

38 (H) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE STATE
39 INCOME TAX FOR THE TAXABLE YEAR, THE TAXPAYER MAY APPLY THE EXCESS AS A

1 CREDIT AGAINST THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL
2 THE EARLIER OF:

3 (1) THE FULL AMOUNT OF THE EXCESS HAVING BEEN USED; OR

4 (2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE
5 TAXABLE YEAR IN WHICH THE APPROVED LEAD HAZARD REDUCTION PROJECT WAS
6 COMPLETED.

7 (I) (1) FOR EACH FISCAL YEAR, A TAXPAYER MAY SUBMIT TO THE
8 DEPARTMENT FOR APPROVAL A PROPOSAL FOR A LEAD HAZARD REDUCTION
9 PROJECT QUALIFYING FOR THE TAX CREDITS ALLOWED UNDER THIS SECTION.

10 (2) A PROPOSAL FOR A LEAD HAZARD REDUCTION PROJECT SHALL BE
11 SUBMITTED IN WRITING BEFORE COMMENCEMENT OF THE PROJECT AND SHALL
12 INCLUDE:

13 (I) A DESCRIPTION OF THE PROPERTY OR PROPERTIES THAT ARE
14 THE SUBJECT OF THE PROPOSED LEAD HAZARD REDUCTION PROJECT, INCLUDING
15 THE CURRENT AND ANTICIPATED USES OF THE PROPERTY;

16 (II) A DESCRIPTION OF ANY LEAD HAZARD REDUCTION ACTIVITIES
17 OF WHICH THE TAXPAYER IS AWARE THAT HAVE BEEN PERFORMED ON THE
18 PROPERTY;

19 (III) A DESCRIPTION OF THE LEAD HAZARD REDUCTION ACTIVITIES
20 THAT WILL BE PERFORMED ON THE PROPERTY UNDER THE PROJECT;

21 (IV) THE ANTICIPATED DIRECT COSTS OF THE PROJECT;

22 (V) THE ANTICIPATED DATES FOR COMMENCEMENT AND
23 COMPLETION OF THE PROJECT; AND

24 (VI) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES
25 BY REGULATION.

26 (3) IN APPROVING OR DISAPPROVING A LEAD HAZARD REDUCTION
27 PROJECT UNDER THIS SUBTITLE AND IN DETERMINING THE MAXIMUM AMOUNT OF
28 CREDITS APPROVED FOR EACH APPROVED PROJECT, THE DEPARTMENT SHALL:

29 (I) CONSIDER ANY RELEVANT FACTORS; AND

30 (II) APPORTION AMONG THE APPROVED PROJECTS THE LIMIT
31 IMPOSED UNDER SUBSECTION (J) OF THIS SECTION ON THE TOTAL TAX CREDITS
32 THAT MAY BE APPROVED FOR THE FISCAL YEAR.

33 (4) THE DEPARTMENT SHALL APPROVE OR DISAPPROVE AN
34 APPLICATION WITHIN 60 DAYS AFTER IT RECEIVES A COMPLETED APPLICATION.

35 (5) EACH APPROVAL:

1 (I) SHALL BE IN WRITING; ~~AND~~

2 (II) SHALL SPECIFY THE MAXIMUM TOTAL AMOUNT OF TAX
3 CREDITS FOR WHICH THE PROJECT IS ELIGIBLE; AND

4 (III) SHALL ASSIGN A PREAPPROVED VOUCHER NUMBER FOR THE
5 TAX CREDIT.

6 (6) EACH DISAPPROVAL SHALL STATE IN DETAIL THE REASONS FOR THE
7 DISAPPROVAL.

8 (J) (1) THE SUM OF THE TAX CREDITS APPROVED FOR ALL LEAD HAZARD
9 REDUCTION PROJECTS APPROVED FOR EACH FISCAL YEAR MAY NOT EXCEED
10 ~~\$5,000,000~~ \$1,000,000.

11 (2) THE DEPARTMENT MAY NOT APPROVE A LEAD HAZARD REDUCTION
12 PROJECT FOR A TAX CREDIT UNDER THIS SECTION AFTER JUNE 30, 2010.

13 (K) (1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY
14 FALSE STATEMENT OR REPORT IN ANY APPLICATION OR OTHER DOCUMENT
15 REQUIRED TO BE FURNISHED TO THE DEPARTMENT OR THE COMPTROLLER
16 RELATING TO THE TAX CREDIT ALLOWED UNDER THIS SECTION.

17 (2) ANY PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
18 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
19 EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

20 (L) THE DEPARTMENT, IN COOPERATION WITH THE COMPTROLLER AND THE
21 DEPARTMENT OF THE ENVIRONMENT, SHALL ADOPT REGULATIONS TO CARRY OUT
22 THIS SECTION.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2006, and shall be applicable to all taxable years beginning after December 31,
25 2005.